

(c) *Review of records.* Only requestors who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time OA analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review are assessable.

(d) *Duplication of records.* Records will be duplicated at a rate of \$.15 per page. For copies prepared by computer such as tapes or printouts, OA shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, OA will charge the actual direct costs of producing the document(s). If OA estimates that duplication charges are likely to exceed \$25.00, it shall notify the requestor of the estimated amount of fees, unless the requestor has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requestor the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(e) *Other charges.* OA will recover the full costs of providing services such as those enumerated below when it elects to provide them:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(f) Remittances shall be in the form of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the FOIA Officer, Office of Administration, 725 17th Street, NW., Washington, DC 20503.

(g) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(h) *Restrictions on assessing fees.* With the exception of requestors seeking documents for a commercial use, OA will provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, OA will not charge fees to any requestor, including commercial use requestors, if the cost of collecting a fee would be equal to or greater than the fee itself.

(1) The elements to be considered in determining whether the "cost of collecting a fee" are the administrative costs of receiving and recording a requestor's remittance, and processing the fee for deposit in the Treasury Department's special account.

(2) For purposes of these restrictions on assessment of fees, the word "pages" refers to copies of "8½ × 11" or "11 × 14." Thus, requestors are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout does meet the terms of the restriction.

(3) Similarly, the term "search time" in this context has as its basis, manual search. To apply this term to searches made by computer, OA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of a search (including the operator time and the cost of operating the computer to process the request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, OA will begin assessing charges for a computer search.

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§ 2502.13 Fees to be charged—categories of requestors.

There are four categories of FOIA requestors: commercial use requestors; educational and non-commercial scientific institutions; representatives of the news media; and all other requestors. The specific levels of fees for each of these categories are:

(a) *Commercial use requestors.* When OA receives a request for documents for commercial use, it will assess charges that recover the full direct costs of searching for, reviewing for release, and duplicating the record sought. Requestors must reasonably

describe the records sought. Commercial use requestors are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. OA may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see § 2502.14).

(b) *Educational and non-commercial scientific institution requestors.* OA shall provide documents to requestors in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requestors must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an education institution) or scientific (if the request is from a non-commercial scientific institution) research. Requestors must reasonably describe the records sought.

(c) *Requestors who are representatives of the news media.* OA shall provide documents to requestors in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requestor must meet the criteria in § 2502.11(j), and his or her request must not be made for commercial use. In reference to this class of requestors a request for records supporting the news dissemination function of the requestor shall not be considered to be a request that is for a commercial use. Requestors must reasonably describe the records sought.

(d) *All other requestors.* OA shall charge requestors who do not fit into any of the categories above fees that recover the full, reasonable, direct cost of searching for and reproducing the records that are responsive to the request, except that the first 100 pages and the first two hours of search time shall be furnished without charge. Moreover, requests for records about the requestors filed in OA's system of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requestors must reasonably describe the records sought.

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§ 2502.14 Miscellaneous fee provisions.

(a) *Charging interest—notice and rate.* OA may begin assessing interest on an unpaid bill starting on the 31st day of the month following the date on which billing was sent. The fact that the fee has been received by OA within the thirty day grace period, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of title 31 of the United States Code and will accrue from the date of billing.

(b) *Charges for an unsuccessful search.* OA may assess charges for time spent searching, even if it fails to locate the records or if records located are determined to be exempt from disclosure. If OA estimates that search charges are likely to exceed \$25.00, it shall notify the requestor of the estimated amount of fees, unless the requestor has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requestor the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(c) *Aggregation results.* A requestor may not file multiple requests at the same time, each seeking portions of a document or documents solely in order to avoid payment of fees. When OA reasonably believes that a requestor, or on rare occasions, a group of requestors acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, OA may aggregate any such request and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(d) *Advance payments.* OA may not require a requestor to make an advance payment, i.e., payment before work is commenced or continued on a request unless:

(1) OA estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed \$250.00. Then, OA will notify the requestor of the likely cost and obtain satisfactory assurance of full payment where the requestor has a history of prompt payment of FOIA fees, or require an advance payment of an